

# ENSURING THE EQUITABLE DISTRIBUTION OF JUDICIAL RESOURCES

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## Introduction

The judiciary employs a number of sophisticated systems to ensure that judicial resources correspond directly to workload. It redistributes staff resources as needed to meet changing needs. The judiciary is notable among federal entities for its use of scientific means to measure its workload, estimate staffing needs, and deploy resources to meet those needs most efficiently. This section includes (1) descriptions of processes used by the judiciary to allocate resources or develop recommendations for congressional use in allocating resources, (2) explanations of the systems in place to ensure equitable distribution of staff and judicial officer resources, and (3) summaries of how resource distributions correspond with the primary workload factors from the most recent year and explanations of any variations.

## Summary

Workload measures correspond closely to the distribution of court staff and judges. The judiciary has developed and continually refines a sophisticated staffing allocation system to ensure the proper distribution of court staff among clerks' offices (appeals, district, and bankruptcy), probation offices, and pretrial services offices. The allocation system for these resources is designed to ensure

that they are distributed in a manner consistent with workload through the use of formulas derived from comprehensive national studies of the work performed in these offices. The judiciary redistributes resources in this manner each year to ensure a fair and equitable allocation of staff to each of the offices based on current workload information.

The judiciary uses standard formulas based on caseload to determine when it should request additional Article III and bankruptcy judgeships from Congress. The number and distribution of appellate, district, and bankruptcy judgeships are determined by Congress. As a result, the distribution of judicial officers is primarily workload-driven, but not entirely so, and there is some disparity in workload among judicial officers. Allocations of judges' chambers staff (law clerks and secretaries) are based on standards for each type of judicial officer.

## Allocation of Staff Resources

For many years, the judiciary has allocated court staff resources on the basis of workload in the courts. Staff resources in the clerks' offices, probation offices, and pretrial services offices account for approximately 80 percent of the support staff of the courts. For each of these court units, the allocation of staff resources is based on staffing formulas developed through work measurement studies. The formulas are applied every year using the most recently compiled data for each of numerous workload factors. In making allocations in this manner, the judiciary ensures that distribution of staff resources to the courts is consistent with current workload. To support equitable resource distribution on a continuing basis, the judiciary has adopted a new Court Personnel System, which provides individual courts flexibility in establishing work forces appropriate for their locale, and a Cost Control Monitoring System requiring financial accountability for personnel actions taken in each court. Together, these systems for measuring, allotting, and funding staff resources guarantee that the allocation of staff resources will not vary from the distribution of workload. Additional information on these systems is included in Chapter 3.

Staffing for the remaining 20 percent of the judiciary is determined through ratios and standards. Nearly all of this represents staffing allocated to chambers.

Standards are set by Judicial Conference policy for appeals, district, bankruptcy, and magistrate judge chambers across the country. Because the judicial officer allocations are workload-driven, the supporting chambers allocations are equally representative of current workload.

## **Work Measurement**

The formulas the judiciary uses to request and allocate staff are based on standard business techniques. Work measurement studies form the basis for formulas used to determine staffing requirements and allocate resources to the support offices. This methodology provides a statistically valid measurement of the staffing hours required to produce an end product or service. Work measurement studies include on-site data collection at a representative sample of courts and additional data collected through interviews with court staff. The time required to perform a task is documented, along with the frequency with which the task is performed.

Data collection occurs only after extensive consultation with court staff to identify accurately the tasks to be studied. This detailed description of tasks is the work-center description that must contain all required duties of the court unit. After data collection, all of the data are analyzed, validated, and subjected to statistical testing in order to identify workload factors (e.g., case filings, the number of judicial officers, etc.) that have the strongest relationships with the time required to perform the work. The best relationships are further validated by applying the resulting staffing factors against the workload to determine their reliability. The factors that are found to be the most reliable in estimating the times to perform tasks are then used to establish a representative and equitable nationwide staffing formula. The number of determining factors will vary. For example, the district court clerks' formula contains more than 30 separate factors, and the probation formula contains 15 factors.

The work measurement process includes a modular approach for formula development to provide flexibility. A modular formula that has the work functionally separated by specific staffing factors is easier to update when changes in operations occur. For example, if the formula has a specific factor for all financial activities and procedural changes occur, the new operation is measured, the old factor is pulled from the formula, and the new factor is substituted.

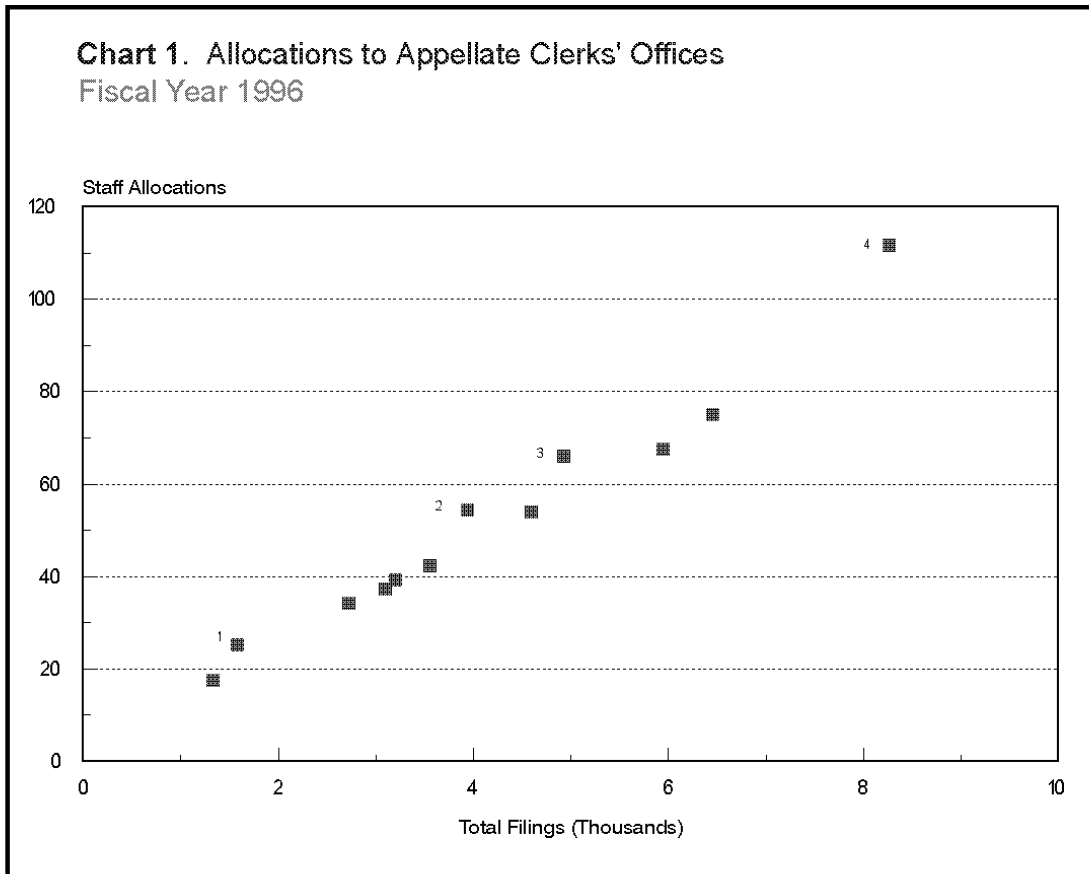
The formulas are revised periodically to incorporate significant changes in procedures, the impact of automation in the courts, and changes in functions resulting from legislative or Judicial Conference actions. The district court clerks'

staffing formula, for example, was recently adjusted to reflect reduced staffing needs associated with processing naturalization applications because of a transfer of responsibilities. Also, the bankruptcy court clerks' formula was adjusted downward to reflect the efficiencies of using a private contractor to issue bankruptcy notices rather than performing the noticing function in the clerk's office.

Since workload fluctuates from year to year, it is necessary to adjust the staffing level of court offices periodically. In fiscal year 1994, bankruptcy filings, which account for a major portion of the clerks' staffing formula, dropped unexpectedly and substantially. The Judicial Conference determined that it could not rely solely on attrition to reduce the existing level of staffing in most of the bankruptcy clerks' offices. Accordingly, it approved a tough, realistic nationwide "equalization" program. The program applied to clerks' offices of all types and probation and pretrial services offices. Courts authorized to hire new staff were urged to consider hiring staff from court units that were over their own target levels. As a result of these efforts, approximately 500 positions were eliminated in bankruptcy courts through voluntary transfers of employees to under-target court units, and through buyouts, retirements, resignations, and involuntary separations.

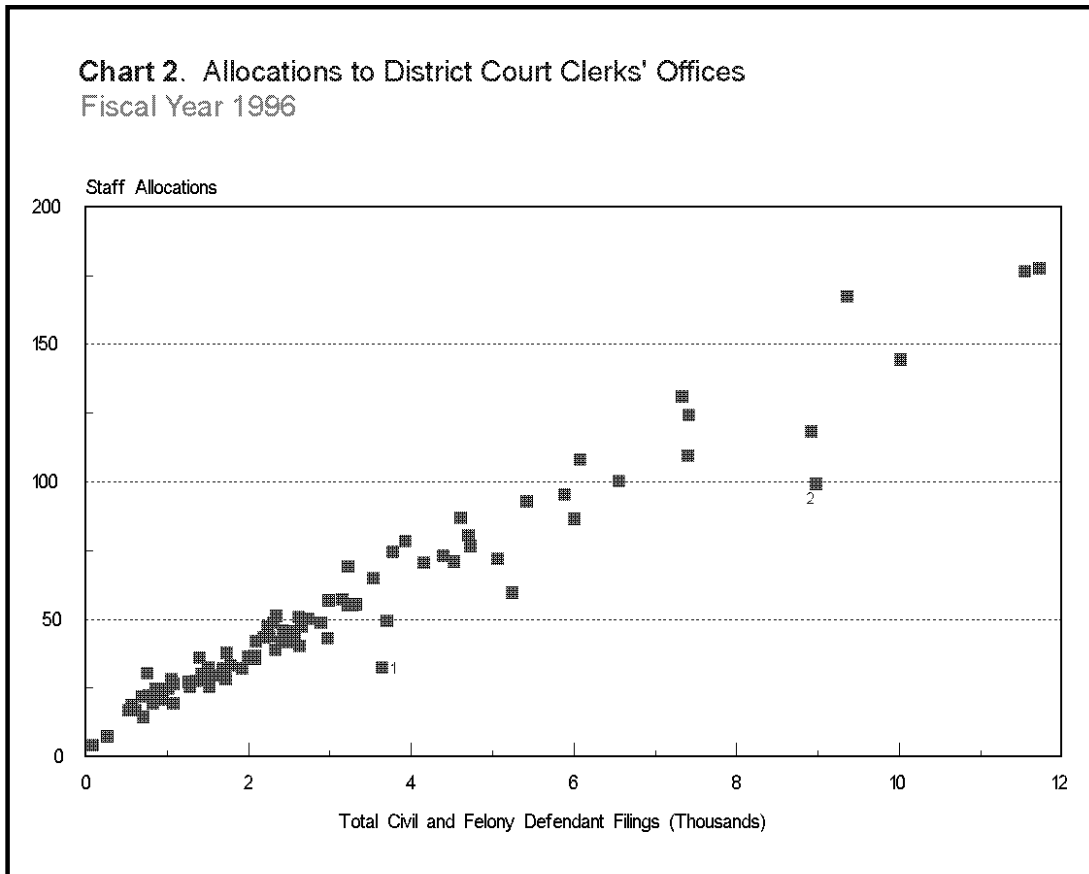
## **Distribution of Resources and Workload**

Caseload is one appropriate measure of staff workload, but some functions performed by the support offices are not directly tied to caseload. For that reason, other factors also are valid determinants of resource requirements. If all workload factors could be rolled into one single factor, the relationship between that result and the allocations would be almost a perfect straight line. Because it is impossible to graph all of the factors combined, Charts 1 through 5 illustrate the close relationships between the primary caseload factor or factors from each staffing formula and the fiscal year 1996 staffing allocations. In each of the charts there is a very high correlation between the two. The small variations in the distribution of resources occur because there are factors other than caseload, and because different weights are given to differing case types. Some of the variation may be due also to adjustments made on a case-by-case basis to accommodate special workload conditions (usually of a temporary nature) faced by individual courts and not represented in the national formulas. In the charts that follow, the square points represent court units (e.g., appellate clerks' offices, probation offices) and all are included unless otherwise noted. In some charts a single point may represent more than one court unit.



**Appellate Clerks' Offices.** The staffing allocation for appellate clerks is based primarily on case filings. Chart 1 shows the relationship between case filings and the allocations to the clerks' offices of the courts of appeals. The nearly straight line shows there is a very high correlation between the two. The few data points that stray slightly from the pattern are caused by (1) allocations made to three of the clerks' offices for personal computer support (noted with 2, 3, and 4 on the chart), which in other circuits is included in allocations to circuit executives' offices; and (2) allocations made to two circuits (1 and 4 on the chart) to accommodate special workload burdens associated with administrative agency cases and staff support to a bankruptcy appellate panel.

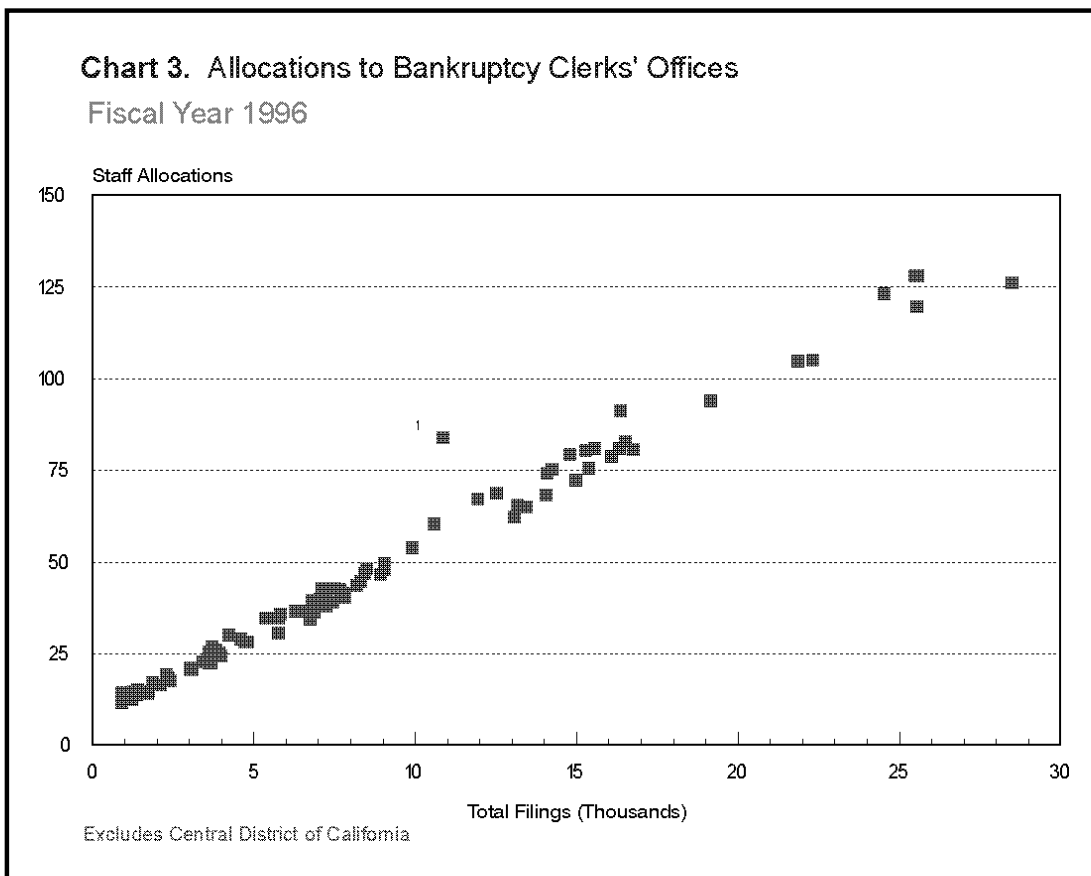
**District Court Clerks' Offices.** In district courts, the number of civil case and criminal defendant filings account for approximately 30 percent of the total district clerks' staffing requirement, and the number of judges serviced by the office accounts for another 30 percent. In addition, there are factors representing the financial functions, space management and planning, automation support, and



the number of divisional offices in operation. Chart 2 shows the relationship between the civil case and criminal defendant filings in each district and the staffing allocations. The data form a consistent pattern of increasing resources with increasing caseload. There is little variation from the pattern formed by the data, again showing the correlation is very high. The courts with the lower allocations (noted as 1 and 2 in the chart) have fewer judges than the caseload would seem to require, and because the number of judges is a major factor in the staffing formula, the allocation appears to be low. One of the courts has a large number of specialized cases that are not a factor in developing the need for judges (asbestos cases). For the other court, Congress has not acted on the Judicial Conference's recommendation to create an additional judgeship (first proposed in 1984), so this court has fewer judges than necessary.

**Bankruptcy Clerks' Offices.** Chart 3 contains data on the allocation of resources to bankruptcy clerks' offices compared to the total number of bankruptcy cases filed. The data form a consistent pattern. In the bankruptcy clerks' formula, caseload (usually weighted by chapter) is used in most of the 30 factors

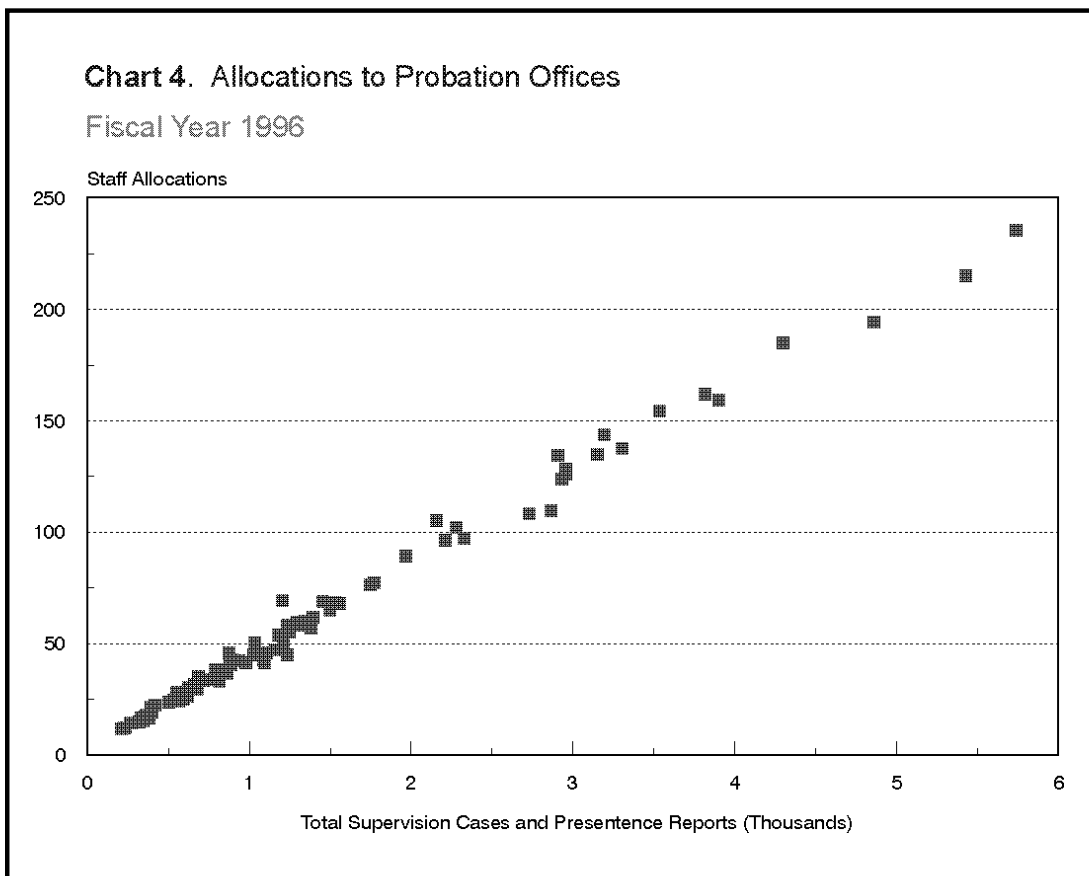
that make up the staffing formula. In addition, there are factors representing the financial functions, space management and planning, automation support, and the number of divisional offices in operation. Slight variations from the pattern result from the use of differing weights for each chapter of the bankruptcy code or from one or more of the other workload factors used in the staffing formulas. Chapter 13 cases are weighted about 1.5 times more than chapter 7, and chapter 11 cases, which are relatively small in number, are weighted almost 10 times higher than chapter 7. Because of this weighting by case type, courts that have a disproportionate number of chapter 13 cases will be allocated more staff resources than a court that has predominately chapter 7 filings, although the courts may have the same number of total case filings. Even with this weighting system, there is still one court (marked 1 in Chart 3) that falls outside the consistent pattern. That court has been provided additional staff resources to address the demands on the clerk's office of "mega"-chapter 11 cases. These are cases in which the assets of the company filing under chapter 11 are in excess of \$100 million and there are more than 1,000 creditors. If a court has a large number of



these unusually large cases, the staffing formula does not adequately account for the workload generated by the cases and an adjustment is made.

As noted, the Central District of California is excluded from Chart 3, as well as Charts 8 and 9 later in this chapter. That court is significantly larger than other bankruptcy courts and the data presentation would be distorted if it were included.

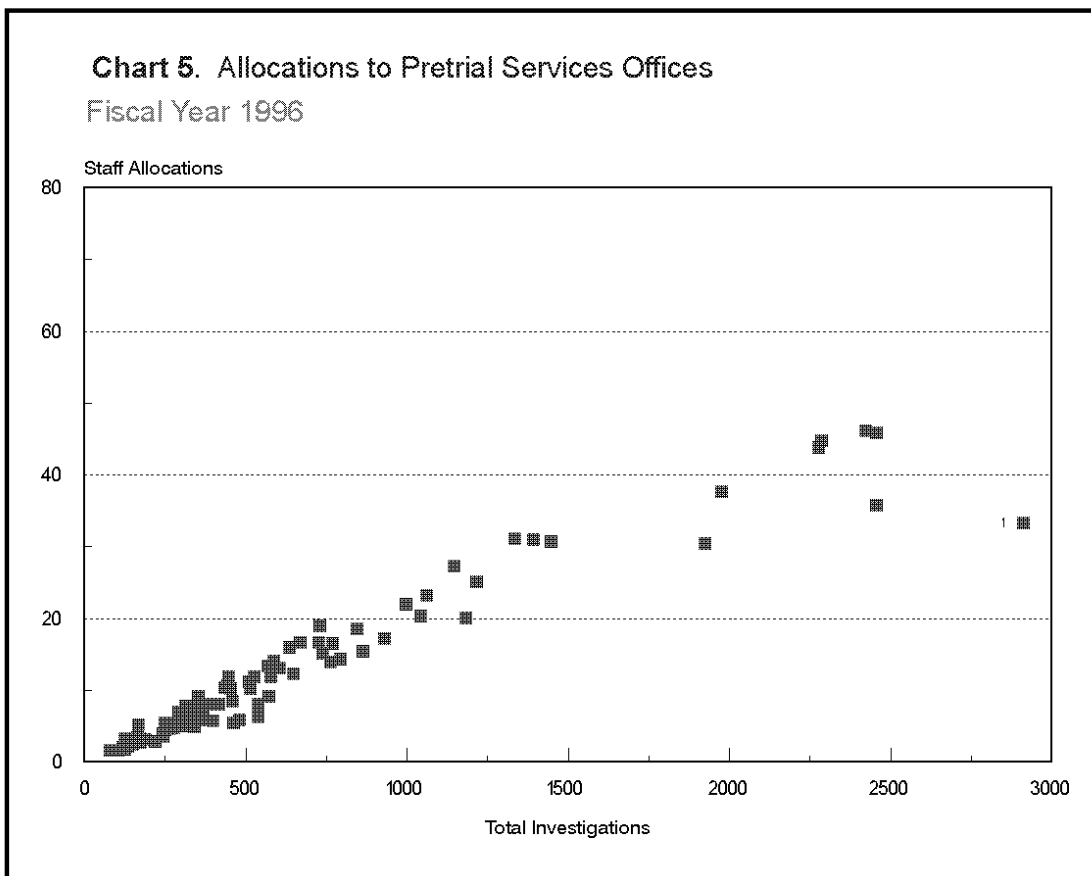
**Probation Offices.** In probation offices, the number of persons under supervision and the number of presentence reports are the dominant workload factors. Chart 4 contains data on the staff allocations to each of the probation offices compared to these factors. The data form almost a straight line, indicating the consistency between workload distribution and resource allocations. The consistency of the pattern results from the fact that these two workload factors determine approximately 80 percent of the staffing allocations to probation offices. Variations from the pattern result from the influence of other workload factors such as the number of home confinement/electronic monitoring cases, the number of mental health cases, and the number of substance abuse cases, all of





which have an impact on workload and staffing requirements but are not accounted for in the comparison shown in Chart 4.

**Pretrial Services Offices.** In pretrial services offices, staffing requirements are determined largely by the numbers of investigations, violation reports, collateral reports, persons under pretrial supervision, and detention hearings. Chart 5 provides the data on allocations to pretrial services offices compared to the total number of investigations conducted by the offices. The data form a consistent pattern of increasing staffing as investigations increase. The numbers of staff allocated to pretrial services offices is relatively small by comparison to other court support offices. Because of that, the pattern in the chart appears to contain more variation than in other court units where staffing allocations are two to five times higher than for pretrial services offices. Variation results from the fact that the staffing formula for pretrial services offices contains numerous workload factors rather than just investigations. For example, the numbers of substance abuse cases, diversion supervision cases, and home confinement cases all play an important role in determining staffing requirements for a court. The courts



that fall furthest from the general pattern in Chart 5 have relatively low numbers of cases in one or several of these staffing factors. The court with the largest number of investigations (labeled 1) has relatively low numbers of detention hearings, substance abuse cases, and diversion supervision cases. Because of those factors, the court receives a lower staffing allocation than other courts with fewer investigations.

# Distribution of Judgeships

## **Judiciary Role in Judgeship Process**

The role of the judiciary in establishing, eliminating, appointing or transferring judgeships is different for magistrate, bankruptcy, and Article III judgeships. The judiciary's role in the distribution of Article III and bankruptcy judgeships is primarily advisory to Congress. For magistrate judge resources, the judiciary has a more direct role. In all cases, the judiciary conducts detailed reviews of its need for judicial officers in all courts and, through the application of general workload standards, determines the appropriate allocation of resources and makes recommendations to Congress.

Congress has the authority to establish or eliminate Article III judgeship positions. The President, with the advice and consent of the Senate, makes judicial appointments. The Judicial Conference recommends congressional action to establish new judgeships and uses standard formulas to determine when an additional judgeship is needed. The Judicial Conference is considering whether it should also recommend that certain positions be eliminated or left vacant.

Congress has the authority to create, eliminate, or transfer bankruptcy judgeships. The Judicial Conference recommends creating new positions or holding positions vacant based upon workload measures. The appointment process for bankruptcy judges is under the control of the courts of appeals and, therefore, decisions related to filling positions or leaving them vacant are within the control of the judiciary. In instances where the court can handle its current workload without filling a vacancy, the judiciary can make adjustments by leaving current vacancies unfilled or by not filling vacancies as they occur.

Under 28 U.S.C. § 633, the Judicial Conference has the authority to establish magistrate judge positions, subject to funding by Congress. It may also eliminate

positions. The judiciary, with each district court having that authority, also appoints magistrate judges. With this control of positions and appointments, the judiciary has established procedures to make sure that magistrate judge resources are distributed equitably. For example, with each vacancy in a magistrate judge position, both the judicial council of the circuit and the Director of the Administrative Office of the U.S. Courts must recommend filling the position before the court can make an appointment.

## Judgeship Survey Process

The Judicial Conference, through its committee structure, uses a formal survey process to review and evaluate magistrate, bankruptcy, and Article III judgeship needs, regularly and systematically. The surveys are based on established criteria related to the workload of the judicial officers. These reviews are conducted by the appropriate committees of the Judicial Conference, with final decisions on judgeship needs by the Judicial Conference itself. For bankruptcy and Article III judgeships, the Judicial Conference submits recommendations to Congress for legislative consideration. With each judgeship survey, the Judicial Conference reconsiders prior recommendations based on more recent workload data and makes adjustments for any court where the workload no longer supports the need for additional judgeships. For both magistrate and bankruptcy judgeships, surveys also include consideration and recommendations related to filling vacant positions. A similar process is under development for Article III judgeships.

The Judicial Conference and its committees use case weighting systems<sup>1</sup> designed to measure judicial workload, along with a variety of other factors, to assess bankruptcy and Article III judgeship needs. The Judicial Conference submits recommendations for additional judgeships for congressional consideration every other year.

For Article III courts, nationwide surveys of judgeship needs are conducted biennially by the Judicial Conference through its Committee on Judicial Resources. At its March 1996 session, the Judicial Conference approved a recommendation to expand the surveys to include possible moratoriums on filling vacancies or

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<sup>1</sup>“Weighted filings” is a mathematical adjustment of filings, based on the nature of cases and the expected amount of judge time required for disposition. For example, in the weighted filings system for district courts, each student loan civil case is counted as only 0.031 cases while each cocaine distribution defendant is counted as 2.27 weighted cases. In the bankruptcy weighting system, each chapter 11 case where assets are in excess of \$1 million is weighted 11.234. Each non-business chapter 7 case with assets under \$50,000 is weighted only 0.089. The weighting factors for both systems were developed on the basis of time studies conducted by the Federal Judicial Center.

eliminating judgeships based on workload changes. The evaluation of judgeship needs is based on justifications submitted by each court, the recommendations of the judicial councils of the circuits, and the most recent caseload data. Although numerous factors are considered, the primary factor for evaluating the need for additional district judgeships is the level of weighted filings. In an ongoing effort to control growth, in 1994 the Judicial Conference adopted new, more conservative criteria to evaluate requests for additional district judgeships, including an increase in the benchmark caseload standard from 400 to 430 weighted cases per judgeship. At its most recent session, the Judicial Conference approved a revised process for evaluating judgeship needs in the courts of appeals. The new process will include the use of a general caseload guideline of 500 filings (with pro se cases weighted 1/3) per three-judge panel, along with numerous other factors affecting the nature of the business of each court. Because of the unique nature of each of the courts of appeals, the Judicial Conference process will involve detailed consideration of local circumstances that may have an impact on judgeship needs.

At present, in odd-numbered years the Judicial Conference, through its Committee on the Administration of the Bankruptcy System, conducts a nationwide survey to determine whether additional bankruptcy judgeships should be recommended to Congress based in part on whether the weighted caseload handled by each judge exceeds 1,500. In even-numbered years the Judicial Conference assesses the continuing need for all currently authorized positions, with the need demonstrated in part if each of the bankruptcy judges in the district would have more than 1,000 weighted filings if a position were eliminated. In situations where the caseload does not support the need for the present number of judgeships, the Judicial Conference recommends that an existing vacancy or the next vacancy on the court not be filled until there is a need to do so. In addition, the Judicial Conference recently approved a procedure through which each circuit judicial council notifies the chair of the Bankruptcy Committee and the Director of the Administrative Office before initiating the process to fill a bankruptcy judgeship so that relevant, up-to-date data can be provided to the circuit to assist with its decision on whether to delay filling the vacancy.

Acting through its Committee on Administration of the Magistrate Judges System, the Judicial Conference considers three primary factors in evaluating the need for full-time magistrate judge positions: (1) the caseload of the district court as a whole and the comparative need of the judges for additional assistance from magistrate judges (comparative need and overall workload); (2) the effectiveness of the existing magistrate judges system in the district and the commitment of the

court to the effective use of the magistrate judges (magistrate judge utilization); and (3) the sufficiency of judicial business that the judges intend to assign to magistrate judges to warrant the addition of a full-time position (available work). In recent years, particular consideration has been given to felony cases and drug filings.

## **Actions to Maximize Use of Judgeships**

Recognizing that workload has increased at much higher levels than authorized judgeships and given the current climate of fiscal constraint, the judiciary is continually looking for ways to work more efficiently without additional resources. As a part of the normal judgeship survey process or as separate initiatives, the judiciary has used a variety of approaches to maximize the use of resources and to ensure that resources are distributed in a manner consistent with workload. Among the more significant methods in use:

- **Temporary Positions.** The Judicial Conference recommends temporary judgeship positions in those instances where the need for an additional judgeship is demonstrated through the survey process, but it is not clear that the need will exist permanently in the district. Temporary positions have been requested by the judiciary and created by Congress for years. This tradition has continued in the most recent Judicial Conference bankruptcy and Article III judgeship requests, which include several recommendations for temporary rather than permanent positions.
- **Delayed Filling of Vacancies.** Pursuant to Judicial Conference policy, the circuit judicial councils manage judicial resources efficiently and economically by filling vacant bankruptcy judgeships only when needed to ensure the continued effective operation of the bankruptcy system in each district. Consideration also is given to delaying the filling of vacant magistrate judge positions in appropriate circumstances. For example, a district court has agreed to leave a position vacant during the recall of a retired magistrate judge; using recalled judges can be more cost-effective than filling a vacancy.
- **Senior and Recalled Judges.** The judiciary also meets its judicial resource needs through the use of Article III judges who retire from regular active service to senior status, and through recall by any circuit of retired bankruptcy judges or magistrate judges to serve in a district on either a full-time or part-

time basis. Most senior Article III judges volunteer their services and perform substantial judicial duties. The number of bankruptcy judges and magistrate judges eligible for recall increases almost every year. Currently, about 392 senior district and circuit judges, 23 recalled bankruptcy judges, and 17 recalled magistrate judges are serving nationwide.

- **Shared Positions.** The judiciary turns to shared judgeship positions (e.g., a bankruptcy judge position shared by the Middle and Southern Districts of Georgia and the district judge position shared by the Eastern and Western Districts of Kentucky) when possible to meet the resource needs of more than one district, thus avoiding the cost of an additional judgeship.
- **Cross Designation.** The judiciary may designate a bankruptcy judge to serve in more than one district pursuant to 28 U.S.C. § 152(d), which permits designation of a bankruptcy judge to serve in any district adjacent to or near the district for which the judge was appointed. The most recently approved example is service by a bankruptcy judge from the Southern District of Alabama in the Northern District of Florida. Other jurisdictions have also used this authority.

Magistrate judges may be designated by a court pursuant to 28 U.S.C. § 631(a) to serve on a continuing basis in districts adjacent to the district for which the judge was appointed. In 1996, approximately 70 magistrate judges assisted other districts under this authority, usually with preliminary felony criminal proceedings.

- **Intercircuit and Intracircuit Assignments.** The judiciary uses systems for intercircuit and intracircuit assignment of bankruptcy, magistrate, and Article III judges to furnish short-term solutions to the disparate judicial resource needs of districts within a circuit and between circuits. Under these systems, in 1995, visiting judges assisted the district courts in disposing of approximately 1,400 civil cases, 270 criminal cases, and 450 trials. In courts of appeals, visiting judges assisted in the disposition of more than 6,500 appeals.
- **Local Initiatives.** The Ninth Circuit currently has a pilot project designed to balance the disparate bankruptcy caseloads more evenly within that circuit by transferring pretrial work in adversary proceedings to districts with lighter workloads.

- **Use of Technology.** The judiciary also is constantly exploring ways to use technological advancements (e.g., in those districts with the necessary equipment, a judge may conduct pretrial hearings in prisoner petitions by videoconference, saving travel time and costs).

## **Distribution of Judgeships and Workload**

Generally, judgeships are distributed in a manner consistent with workload. However, even with the judgeship survey processes and the actions taken by the Judicial Conference to maximize use of resources, there is still some inevitable disparity in workloads. Some of this results from the volatile nature of the workload in some courts. Many courts have too few judgeships, based on Judicial Conference standards, and a few appear to have too many. This varying distribution of judgeships results from many factors. For example, Congress has created judgeships that were not recommended by the Judicial Conference and which, based on Judicial Conference standards, were not justified. For others, the caseload has declined since the last judgeship was created.

To the extent that the judiciary can control any disparities in workload per judgeship among the courts, it is doing so. In situations where it lacks control, the judiciary is in the process of developing a procedure for recommending corrective action for congressional consideration.

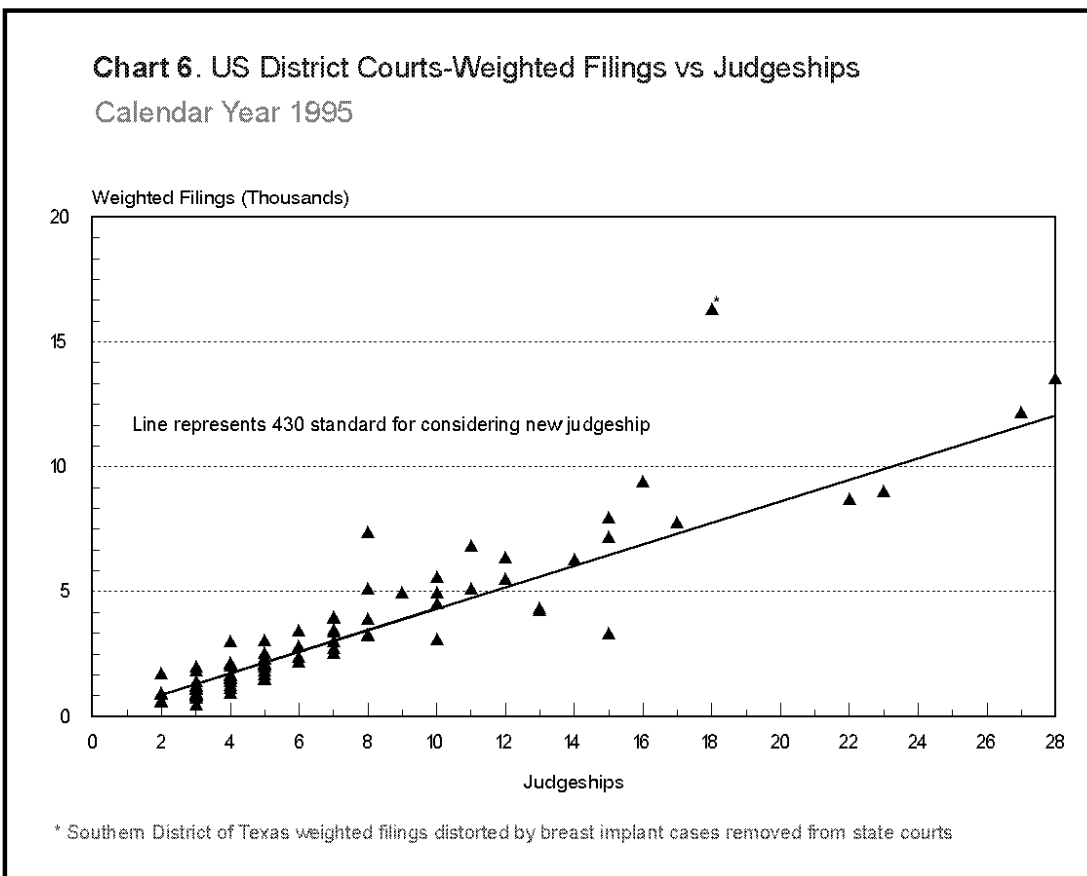
The following section provides, for each type of judgeship, more detailed information on the distribution of judgeships compared to the primary workload measures used by the Judicial Conference to evaluate judgeship needs, and actions taken or recommended by the Judicial Conference to remedy any inequitable distribution of resources. In the charts that follow, the triangular points represent courts and all are included unless otherwise noted. In some charts, a single point may represent more than one court.

**Article III Judgeships.** As noted previously, the primary factor used for determining the need for district judgeships is the weighted caseload per judgeship in a district. Although this is not the only important factor, it can be used to demonstrate the extent to which judgeships are distributed in a manner consistent with workload. In 1994, the Judicial Conference revised its standard level of weighted filings for considering requests for additional judgeships. Prior to that time, the Judicial Conference used 400 weighted filings per judgeship as the point at which it would consider recommending that an additional judgeship be created. The

standard was raised to 430 per judgeship in 1994, a 7.5 percent increase, and remains in effect today. By comparison, with recent increases in the caseload in district courts without an increase in judgeships, the national average weighted caseload per judgeship is now up to 462.

Chart 6 shows the weighted caseload per judgeship for each of the district courts for calendar year 1995 and a line representing the Judicial Conference standard of 430 weighted filings per judgeship. There is considerable variation in the caseload levels, some of it resulting from too few judgeships in many locations and some from the fact that many district courts are relatively small. For these small courts, the addition or elimination of a judgeship has a significant impact on the per judge caseload and results in considerable variation in per judge caseloads (see more detailed discussion of the small-court situation on page 24).

Based on the most recent full year of data, there are 29 courts with weighted filings more than 10 percent above the Judicial Conference standard. In 1992 and again in 1994, the Judicial Conference recommended that additional judgeships be created in a number of these courts. These recommendations have been





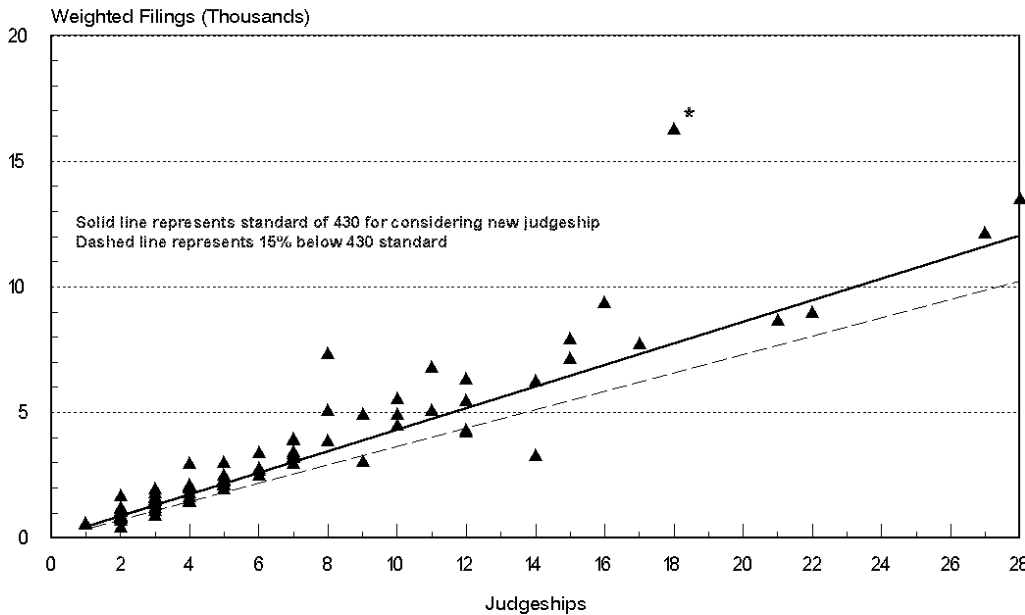
transmitted to Congress with a request for consideration, but neither of the requests resulted in the introduction of legislation. The Judicial Conference updated its judgeship requests in September 1996, and those revised recommendations for 20 of the 29 courts will be transmitted for consideration by the 105th Congress. These districts are noted in Table 1 (page 29), along with the weighted filings per judgeship for all courts. Inaction on Judicial Conference recommendations is one of the primary factors resulting in an inequitable distribution of judicial resources in the district courts.

The Judicial Conference currently is in the process of developing standards for considering recommendations related to the reduction of judgeships or leaving vacancies unfilled. Therefore, any analysis of courts where it may be appropriate to leave vacancies unfilled or eliminate judgeships is premature. As an example of a potential standard, the Judicial Conference could require the judgeship situation in courts to be reviewed if per judgeship weighted filings with the loss of a judgeship would fall more than 15 percent below the current standard of 430 per judgeship for recommending additional judgeships. Chart 7 shows the results of eliminating a judgeship in each court currently below the 430 standard. The data for each district are provided in Table 1 on page 29.

With this adjustment to judgeships, there would be only six courts that fall more than 15 percent below the standard.

- Two of these courts had the last judgeship created by Congress without a recommendation or request from the Judicial Conference.
- One had the last judgeship established by Congress as a permanent judgeship when the Judicial Conference had recommended that the judgeship be temporary.
- One had the last judgeship created in 1978 when the caseload was at a much higher level and more than justified by the caseload at that time; that court has already acknowledged that there is no need to fill existing vacancies.
- One had its last judgeship created in 1970 when both Judicial Conference and congressional standards for reviewing needs were substantially different than more recent standards.
- The remaining one had its last judgeship created in 1949 and changes in jurisdiction led to substantial reduction in the caseload.

**Chart 7. US District Courts-Weighted Filings vs Judgeships**  
 With Elimination of One Judgeship in Courts Under 430 Per Judgeship



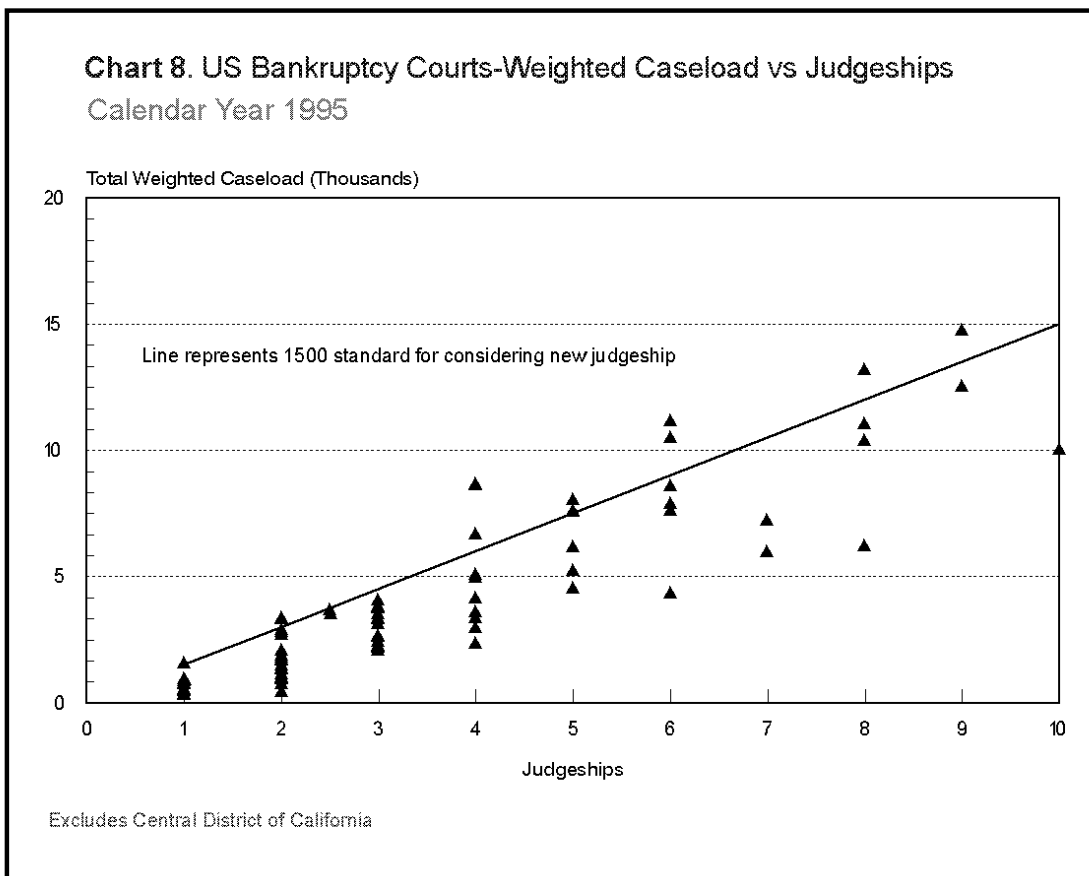
The Judicial Conference will review the situation very carefully in each of these courts in the near future and recommend action related to the judgeship situation in the courts if that appears to be appropriate based on all available information.

Defining appellate workload is a complex matter. There are too many variables to depict in a simple manner the distribution and relationship of appellate workload and judgeships. The relatively small number of appellate courts and judges, combined with the varying nature of appellate cases and practices, make it difficult to define a general measure of workload. Therefore, developing a general standard for evaluating judgeship needs is a challenging task.

Since the Judicial Conference recently adopted a new process for reviewing judgeship needs in the courts of appeals, it is premature to compare the distribution of resources to the revised standards. Actual application of the process through the courts and the Judicial Conference committees may result in adjustments based on local situations that could have an impact on the distribution of judgeships. Based on a strict application of only the new caseload standard, two

courts do not meet the standard. One of those is just below the standard, and if the court were to lose a judgeship, it would then exceed the standard. The other court below the standard has long been recognized by the Judicial Conference and the Congress as having a unique caseload that does not lend itself to the same criteria as other courts. This situation was taken into consideration by the Judicial Conference and the Congress when the last judgeships were created for this court.

**Bankruptcy Judgeships.** The primary factor used for determining the need for bankruptcy judgeships is the level of the weighted caseload per judgeship in a district. Although this is not the only important factor, it can be used to demonstrate the extent to which bankruptcy judgeships are distributed in a manner consistent with workload. Chart 8 shows the weighted caseload per judgeship for each of the bankruptcy courts for calendar year 1995. The diagonal line represents the Judicial Conference standard of 1,500 weighted cases per judgeship for considering requests for additional judgeships. All courts above the line

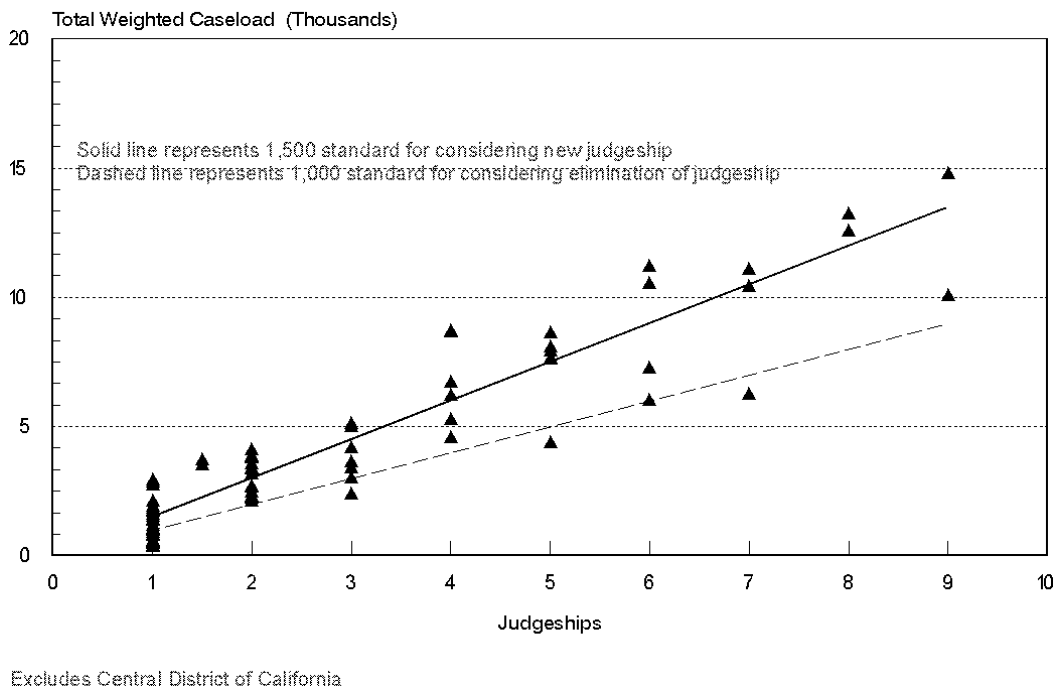


have per judgeship caseloads in excess of 1,500. There is clearly considerable variation in the caseload levels, resulting in many instances from the fact that most bankruptcy courts are relatively small. By way of an example, if a two-judge bankruptcy court has a weighted caseload of 1,600 per judgeship (meeting the Judicial Conference standard of more than 1,500 weighted cases per judgeship) and is authorized an additional judgeship, the resulting weighted caseload per judgeship for three judges would fall to 1,067, a reduction of 33 percent. Because most bankruptcy courts are small (only 18 have more than 5 judgeships), the addition or elimination of a judgeship has a significant impact on the per judge caseload.

The Judicial Conference assesses the need for additional judgeships in bankruptcy courts based, in part, on whether the weighted caseload handled by each judge exceeds 1,500. Chart 8 shows that there are 15 bankruptcy courts (some points on the chart represent more than a single court and Central California is not shown on the chart) that exceed the Judicial Conference standard based on data for calendar year 1995. To address the situation of too few judgeships in some courts, in 1993 the Judicial Conference recommended 19 additional judgeships, but Congress did not act on the request. In September 1995, the Judicial Conference revised this request to 11 additional judgeships (5 permanent and 6 temporary) in eight courts. All of the eight courts are among the 15 with weighted caseloads in excess of 1,500 per judgeship. The districts are noted in Table 2 (page 32), which contains weighted caseload data for all courts.

In even-numbered years, the Judicial Conference assesses regularly the continuing need for all currently authorized positions. The Judicial Conference has stated that all bankruptcy judgeships should be retained but that vacancies should not be filled in districts where the need is not demonstrated by weighted filings. The need is demonstrated in part if each of the bankruptcy judges in the district would have more than 1,000 weighted filings if a position were eliminated. Chart 9 shows the per judgeship weighted caseload if all courts currently below the standard for recommending additional judgeships (1,500 per judgeship) were to lose a position (except courts with only a single judgeship now). The data are provided in Table 2 on page 32. Excluding the courts with only one judgeship, there would be seven courts at or below the Judicial Conference standard of 1,000 per judgeship if one existing judgeship were eliminated. For each of these courts, the Judicial Conference has recommended that the next vacancy not be filled. In addition, the Judicial Conference has recommended that the next vacancy not be filled in three courts where the weighted caseload with the loss of a judgeship is just above the 1,000 standard. There are also a few situations

**Chart 9. US Bankruptcy Courts-Weighted Caseload vs Judgeships**  
 With Elimination of One Judgeship in Courts Under 1,500 Per Judgeship  
 Calendar Year 1995



where the courts of appeals have delayed filling a bankruptcy judge vacancy (even though the weighted caseload is above the 1,000 standard) until the caseload supports the need for the judge.

**Magistrate Judgeships.** The process for determining the need for magistrate judge positions is based on a complex set of factors that are not readily quantified in a standard way. The work of magistrate judges is dependent upon assignments made by the district court and, at times, the willingness of parties to consent to magistrate judge jurisdiction. A magistrate judge's work may include civil consent cases, pretrial duties in civil and felony cases, preliminary proceedings in felony cases, misdemeanor criminal cases, petty offense cases, and a variety of other matters assigned by the court. Because of this, it is difficult to isolate a specific measure to show in chart form the extent to which workload corresponds to the distribution of resources.

In reviewing the need for magistrate judge positions, the Judicial Conference examines the overall workload of the court, including (1) the number and

location of district judges, (2) the number of authorized places of holding court and caseload per divisional office, (3) total civil and criminal filings and the trend in filings, (4) weighted filings per judgeship, and (5) special factors bearing on the workload of the court.

The Judicial Conference also examines the following factors to assess magistrate judge utilization and available work: (1) number, location, and workload of existing magistrate judge positions in the district; (2) areas and facilities served by the magistrate judges; (3) special geographic and communications considerations; (4) extent of duties delegated to the magistrate judges by the district court; (5) number and types of misdemeanor and petty offense cases terminated by the magistrate judges; (6) number and types of initial proceedings conducted by the magistrate judges in felony criminal cases; (7) number and types of "additional duties" handled by the magistrate judges upon delegation from the district judges; (8) number and types of civil cases and trials completed by the magistrate judges under 28 U.S.C. § 636(c); (9) types and volume of duties available for assignment to an additional magistrate judge; and (10) other pertinent factors particular to the district court or the magistrate judge position in issue.

The Judicial Conference adopted a program of district-wide reviews in March 1991 to streamline the magistrate judge survey process. Previously, the Committee on the Administration of the Magistrate Judges System reviewed each magistrate judge position prior to expiration of the incumbent's term of office to determine whether the position should be continued for an additional term and, with respect to part-time positions, whether there should be any change in the salary or other arrangement. Under the new procedures, all positions in a district with part-time magistrate judge positions must be reviewed every four years and all positions in a district with only full-time positions must be reviewed every five years. This process allows the Magistrate Judges Committee to place greater emphasis on magistrate judge utilization and resource allocation. In addition to the scheduled district-wide review, a court may request at any time additional magistrate judge resources or changes to existing positions. Through this process, the Judicial Conference eliminated one existing full-time magistrate judge position in March 1996.

# Conclusion

The distribution of staff resources to the courts is consistent with the distribution of workload. Staffing allocations are made each year on the basis of recent workload data so changes in the workload are reflected in changes to allocations. To ensure equitable distribution of resources on a continuing basis, the judiciary has adopted a new Court Personnel System providing courts flexibility in establishing their work force and a Cost Control Monitoring System requiring financial accountability for personnel actions. These systems, in conjunction with the staffing formulas, ensure that the allocation of staff resources will be consistent with current workload.

The distribution of judicial officers to the individual courts is consistent with the distribution of workload to the extent that the judiciary independently can control. One magistrate judge position was recently eliminated and the Judicial Conference has identified 10 bankruptcy courts where it has recommended that the next vacancy not be filled. For Article III positions, the Judicial Conference is developing a process to identify situations where it may be appropriate to recommend that a vacancy not be filled or that a position be eliminated. In addition to identifying situations where the caseload of a court might be manageable with fewer judicial officers, the much more common scenario is one where there are insufficient judicial officers to handle the caseload. For district courts, the Judicial Conference recommended additional judgeships in 1992 and 1994 and just completed development of recommendations in 1996, all without congressional action to establish these needed positions. The Judicial Conference recommended additional positions in 1993 and 1995 for bankruptcy courts, but, to date, Congress has not established these positions. Because of the delays in establishing needed positions, there are numerous courts with an insufficient number of judgeships.

One important caveat needs to be kept in mind when reflecting on the information in this report. The Judicial Conference does not use the data alone in developing recommendations for congressional consideration. A detailed process of reviewing and evaluating requests for additional judgeships has been in place for many years, and the Judicial Conference is developing a similar process for reviewing situations where it may be appropriate to recommend eliminating Article III judgeships or not filling vacancies. Such a process is already in place for bankruptcy judgeships.

The elimination of a judicial officer position in any particular location is one that requires careful study, as is the case with the addition of a judgeship. There

needs to be careful analysis of the increased delays, burdens on the other judges, interference with case processing, and related strains on the entire judicial system before any such reduction takes place. The impact on a court of eliminating a position may, in fact, be much greater than is apparent from a review of the caseload data.

Caseloads in nearly all appellate and district courts have been increasing steadily for the last 30 years, so the Judicial Conference has not considered recommending elimination of positions. As a result, the judiciary has little experience with this issue, particularly as it relates to Article III judgeships. Developing recommendations for reducing the number of judgeships in any particular court is a matter that requires more study and reflection—a process in which the Judicial Conference is presently engaged.



**Table 1**  
**U.S. District Courts**  
**Weighted Filings per Judgeship**  
**Calendar Year 1995**

<b>District</b>	<b>Authorized Judgeships</b>	<b>Current Weighted Filings Per Judgeship</b>	<b>Weighted Filings With Loss of One Judgeship</b>
DC.....	15	222	238
1ST CIRCUIT			
ME.....	3	289	434
MA.....	13	327	354
NH.....	3	304	456
RI.....	3	312	468
PR.....	7	389	454
2ND CIRCUIT			
CT.....	8	413	472
NY,N.....	5	459 *	574
NY,E.....	15	530 *	568
NY,S.....	28	484	502
NY,W.....	4	529 *	705
VT.....	2	317	634
3RD CIRCUIT			
DE.....	4	239	319
NJ.....	17	457	486
PA,E.....	23	392	410
PA,M.....	6	395	474
PA,W.....	10	308	342
4TH CIRCUIT			
MD.....	10	452	502
NC,E.....	4	507	676
NC,M.....	4	378	504
NC,W.....	3	665 *	998
SC.....	9	552 *	621
VA,E.....	10	496	551
VA,W.....	4	536	715
WV,N.....	3	281	422
WV,S.....	5	299	374
5TH CIRCUIT			
LA,E.....	13	333	361
LA,M.....	2	871 *	1,742

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<b>District</b>	<b>Authorized Judgeships</b>	<b>Current Weighted Filings Per Judgeship</b>	<b>Weighted Filings With Loss of One Judgeship</b>
LA,W.....	7	365	426
MS,N.....	3	411	617
MS,S.....	6	398	478
TX,N.....	12	532	580
TX,E.....	7	484	565
TX,S.....	18	906	959
TX,W.....	10	560	622
<b>6TH CIRCUIT</b>			
KY,E.....	5	440 *	566
KY,W.....	5	343	441
MI,E.....	15	480	514
MI,W.....	5	366	458
OH,N.....	12	459	501
OH,S.....	8	405	463
TN,E.....	5	472 *	590
TN,M.....	4	385	513
TN,W.....	5	420	525
<b>7TH CIRCUIT</b>			
IL,N.....	22	396	415
IL,C.....	4	390	520
IL,S.....	4	408	544
IN,N.....	5	412	515
IN,S.....	5	510 *	638
WI,E.....	4	410	547
WI,W.....	2	474	948
<b>8TH CIRCUIT</b>			
AR,E.....	5	433	541
AR,W.....	3	311	467
IA,N.....	2	445	890
IA,S.....	3	423	635
MN.....	7	430	502
MO,E.....	8	412	471
MO,W.....	6	472	566
NE.....	4	357	476
ND.....	2	321	642
SD.....	3	364	546

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District	Authorized Judgeships	Current Weighted Filings Per Judgeship	Weighted Filings With Loss of One Judgeship
9TH CIRCUIT			
AK.....	3	256	384
AZ.....	8	642 *	734
CA,N.....	14	449	484
CA,E.....	7	570 *	665
CA,C.....	27	451	468
CA,S.....	8	921 *	1,053
HI.....	4	379	505
ID.....	2	306	612
MT.....	3	386	579
NV.....	4	750 *	1,000
OR.....	6	576 *	691
WA,E.....	4	282	376
WA,W.....	7	498 *	581
10TH CIRCUIT			
CO.....	7	566 *	660
KS.....	6	398	478
NM.....	5	607 *	759
OK,N.....	3.5	355	497
OK,E.....	1.5	419	629
OK,W.....	6	365	438
UT.....	5	334	418
WY.....	3	161	242
11TH CIRCUIT			
AL,N.....	8	490	560
AL,M.....	3	617 *	926
AL,S.....	3	619	929
FL,N.....	4	418	557
FL,M.....	11	623 *	685
FL,S.....	16	588 *	627
GA,N.....	11	465	512
GA,M.....	4	396	528
GA,S.....	3	468	702

\* The Judicial Conference has recommended additional judgeship(s).

**Table 2**  
**U.S. Bankruptcy Courts**  
**Weighted Caseload per Judgeship**  
**Calendar Year 1995**

<b>District</b>	<b>Authorized Judgeships</b>	<b>Current Weighted Caseload Per Judgeship</b>	<b>Weighted Caseload With Loss of One Judgeship*</b>
DC.....	1	935	935
1ST CIRCUIT			
ME.....	2	401	802 ***
MA.....	5	1,525	1,906
NH.....	2	538	1,076
RI.....	1	977	977
PR.....	3	1,129	1,694
2ND CIRCUIT			
CT.....	3	1,274	1,911
NY,N.....	2	1,708 **	3,416
NY,E.....	6	1,760 **	2,112
NY,S.....	9	1,644	1,850
NY,W.....	3	1,287	1,931
VT.....	1	520	520
3RD CIRCUIT			
DE.....	2	1,681	3,362
NJ.....	8	1,658 **	1,895
PA,E.....	5	1,618 **	2,023
PA,M.....	2	1,707	3,414
PA,W.....	4	760	1,013
4TH CIRCUIT			
MD.....	4	2,183 **	2,911
NC,E.....	2	1,381	2,762
NC,M.....	3	709	1,064
NC,W.....	2	959	1,918
SC.....	3	1,056	1,584
VA,E.....	5	1,531	1,914
VA,W.....	3	752	1,128
WV,N.....	1	567	567
WV,S.....	1	925	925
5TH CIRCUIT			
LA,E.....	2	924	1,848
LA,M.....	1	624	624

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**Calendar Year 1995**

District	Authorized Judgeships	Current Weighted Caseload Per Judgeship	Weighted Caseload With Loss of One Judgeship*
LA,W.....	3	888	1,332
MS,N.....	1	1,607	1,607
MS,S.....	2	1,474	2,948
TX,N.....	6	1,326	1,591
TX,E.....	2	1,432	2,864
TX,S.....	6	1,277	1,532
TX,W.....	5	1,055	1,319
6TH CIRCUIT			
KY,W.....	3	763	1,144 ***
MI,E.....	4	1,685 **	2,247
MI,W.....	3	910	1,365
OH,N.....	8	781	893 ***
OH,S.....	7	859	1,002 ***
TN,E.....	4	917	1,223
TN,M.....	3	1,294	1,941
TN,W.....	4	2,174	2,899
7TH CIRCUIT			
IL,N.....	10	1,010	1,122
IL,C.....	3	753	1,130
IL,S.....	2	1,068	2,136
IN,N.....	3	823	1,235
IN,S.....	4	1,051	1,401
WI,E.....	4	596	795 ***
WI,W.....	2	721	1,442
8TH CIRCUIT			
AR,E.....	3	1,142	1,713
IA,N.....	2	410	820 ***
IA,S.....	2	500	1,000 ***
MN.....	4	1,282	1,709
MO,E.....	3	1,366	2,049
MO,W.....	3	762	1,143
NE.....	2	601	1,202
ND.....	1	429	429
SD.....	2	252	504 ***

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**Weighted Caseload per Judgeship**  
**Calendar Year 1995**

District	Authorized Judgeships	Current Weighted Caseload Per Judgeship	Weighted Caseload With Loss of One Judgeship*
9TH CIRCUIT			
AK.....	2	522	1,044 ***
AZ.....	7	1,041	1,215
CA,N.....	9	1,398	1,573
CA,E.....	6	1,440	1,728
CA,C.....	21	1,963 **	1,859
CA,S.....	4	1,254	1,672
HI.....	1	790	790
ID.....	2	780	1,560
MT.....	1	788	788
NV.....	3	1,187	1,781
OR.....	5	916	1,145
WA,E.....	2	698	1,396
WA,W.....	5	1,247	1,559
10TH CIRCUIT			
CO.....	6	732	878 ***
KS.....	4	856	1,141
NM.....	2	768	1,536
OK,N.....	2	862	1,724
OK,E.....	1	566	566
OK,W.....	3	751	1,127
UT.....	3	779	1,169
WY.....	1	386	386
11TH CIRCUIT			
AL,N.....	6	1,868	2,242
AL,M.....	2	959	1,918
AL,S.....	2	717	1,434
FL,N.....	1	840	840
FL,M.....	8	1,307	1,494
FL,S.....	5	1,526 **	1,908
GA,N.....	8	1,386	1,584
GA,M.....	2.5	1,484	2,473
GA,S.....	2.5	1,426	2,377

\* In courts with more than one authorized judgeship.

\*\* Judicial Conference recommended additional judgeship(s) in 1995.

\*\*\* Judicial Conference recommended that next vacancy not be filled.